

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAFIYQ DAVIS <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">v.</div> MIKE WENEROWICZ, et al. <div style="text-align: center;">Defendants.</div>	: : : : : : : : :	CIVIL ACTION No. 14-4974
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**DEFENDANT’S ANSWER, WITH AFFIRMATIVE DEFENSES,
TO PLAINTIFF’S COMPLAINT**

Defendant Chris Thomas (“Answering Defendant”), through undersigned counsel, hereby files his Answer, With Affirmative Defenses, to Plaintiff’s Complaint and avers as follows:

All averments, allegations, and statements of fact set forth in Plaintiff’s complaint are **DENIED**. The City of Philadelphia, its officials, employees, and/or agents have not violated Plaintiff’s constitutional or civil rights. All of the alleged facts contained in Plaintiff’s complaint are untrue, inaccurate, misleading, and/or the Answering Defendants are without sufficient knowledge or information to form a belief as to their truthfulness. Strict proof thereof, if relevant, is demanded at the trial of this matter. Plaintiff’s complaint also contains conclusions of law to which the Federal Rules of Civil Procedure require no response.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The plaintiff's federal claims, in whole or in part, fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The plaintiff's state-law claims are barred or limited by Pennsylvania's Political Subdivision Tort Claims Act, 42 PA. CONS. STAT. ANN. § 8541 *et seq.*

THIRD AFFIRMATIVE DEFENSE

The plaintiff's claims are barred by the doctrine of qualified immunity because, at all times material hereto, the individual defendants were carrying out their duties in a proper and lawful manner, and in the exercise of good faith.

FOURTH AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, by his failure to comply with the provisions of the Prison Litigation Reform Act of 1995 ("PLRA"), 42 U.S.C. § 1997e(a), including but not limited to, the provisions requiring exhaustion of all administrative remedies before commencing a federal suit and physical injury requirement of 1997(e).

FIFTH AFFIRMATIVE DEFENSE

The plaintiff's claims are barred, in whole or in part, to the extent that he has failed to take reasonable measures to mitigate any or all damages.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the applicable Statute of Limitations.

WHEREFORE, Answering Defendants deny they are liable to the Plaintiff and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

JURY DEMAND

Answering Defendants demand a jury trial in this action.

Date: April 20, 2015

/s/ Aaron Shotland
Aaron Shotland
Pa. Attorney ID No. 205916
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RAFIYQ DAVIS	:	CIVIL ACTION
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Plaintiff,	:	
	:	
v.	:	
	:	
MIKE WENEROWICZ, et al.	:	No. 14-4974
Defendants.	:	
	:	

CERTIFICATE OF SERVICE

I certify that on the date listed below, a true and correct copy of the Defendants' Answer, with Affirmative Defenses, to Plaintiff's Complaint was filed via the Court's electronic filing system and available for downloading. I additionally certify that a copy was also served upon the following individuals by first class mail, postage prepaid, as follows:

RAFIYQ DAVIS
4901 Stenton Ave
APT. #K7
PHILADELPHIA, PA 19144

Date: April 20, 2015

/s/ Aaron Shotland
Aaron Shotland
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